

**AMENDATORY RESOLUTION OF THE TOWN OF
AMHERST INDUSTRIAL DEVELOPMENT AGENCY
RELATING TO THE 2021 BREWSTER AMHERST
PRESERVATION, L.P. PROJECT.**

WHEREAS, the Town of Amherst Industrial Development Agency (the “Agency”) is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Section 914-a of the General Municipal Law, as amended (collectively, the “Act”), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, Brewster Amherst Preservation, L.P., for itself or for related individuals or entities (the “Company”), has entered into negotiations with officials of the Agency with respect to the construction and equipping by the Agency without the proceeds of a bond issue of a project (the “Project”) consisting of (i) the acquisition and renovation of an existing 118,674 +/- square foot building containing 216 residential units utilized for affordable housing and the construction of an 880+/- square foot addition to a clubhouse (the “Improvements”); and (ii) the acquisition and installation therein, thereon or thereabout of certain machinery, equipment and related personal property (the “Equipment”) and conveyance of the Project pursuant to an Installment Sale Contract or the lease of the Project to the Company, such Project to be located at 910-937 Robin Road and 501-511 Little Robin Road, Amherst, New York (the “Premises”); and

WHEREAS the Agency adopted a resolution dated July 16, 2021 to authorize the Project (the “Inducement Resolution”); and

WHEREAS, subsequent to the adoption of the Inducement Resolution, the Company advised the Agency that the structuring of the Project will be such that Brewster Amherst Preservation Housing Development Fund Company, Inc. (the “HDFC”) will be the legal fee title owner of the Premises, as nominee for and on behalf of the Company, with the Company retaining all equitable and beneficial ownership in the Premises as well as all liability, financial or otherwise, associated with the Premises and the Project; and

WHEREAS, subsequent to the adoption of the Inducement Resolution, the Company informed the Agency that the cost of the Project had increased from \$34,439,200.00 to approximately \$42,000,000.00; and

WHEREAS, the Company identified additional costs and expenses that are eligible for exemption from sales and use taxes for the Project, and has requested that Agency approve an increase in the total amount of Project costs that are eligible for the sales and use tax exemption from \$6,000,000.00 to an amount not to exceed \$6,100,000.00; and

WHEREAS, the Agency desires to adopt this Amendatory Resolution to make conforming

changes to the Inducement Resolution reflective of the foregoing.

NOW, THEREFORE, THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

1. Section 7 of the Inducement Resolution is hereby amended in its entirety to read as follows:

“Section 7. The Agency is hereby authorized to enter into a Project Agreement with respect the provision of the Financial Assistance authorized herein (the “Project Agreement”) and to acquire an interest in the Project site and construct a facility thereon, and the execution and delivery of a lease by the HDFC and the Company to the Agency (the “Company Lease”), an Agency Lease Agreement (the “Agency Lease Agreement”) or Installment Sale Contract (the “Installment Sale Contract”) between the Agency, the HDFC and the Company, and such other documents as may be necessary to fulfill the intent of the parties to the transaction (collectively, the “Project Documents”), in form satisfactory to Agency counsel, are hereby authorized. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, or any Assistant Secretary are each authorized to execute such documents and to make or approve such amendments or modifications to the Project Agreement, Company Lease, the Agency Lease Agreement, Installment Sale Contract and such other documents executed and delivered in connection therewith as they deem necessary under the circumstances provided, however, that such modifications do not materially alter the risk to the Agency.”

2. The financial assistance to be provided by the Agency shall include an exemption from sales and use taxes for building materials and machinery, equipment, fixtures and furnishings purchased for incorporation into or use at the Project location having a total cost not to exceed \$6,100,000.00. The designation of the Company as agent of the Agency is limited to purchases of sales-taxable tangible personal property and services in connection with the Project which do not exceed a total cost of \$6,100,000.00. The sales tax exemption shall terminate as of December 31, 2022, unless further extended by the Agency at its discretion.

3. Section 2(c) of the Inducement Resolution relating to Material Factors is modified to read as follows:

“(c) investment of not less than \$5,185,000.00 at the Project location in the renovation and equipping of the Project.”

4. Except as amended by paragraphs 1, 2 and 3 of this Amendatory Resolution, the terms of the Inducement Resolution are unchanged and remain in full force and effect.

5. This Resolution shall take effect immediately.

DATED: August 20, 2021